

1  
2  
3  
4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**

6 \* \* \*

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 ROBERT MARCELLUS JONES, JR.,

11 Defendant.  
12

Case No. 2:18-cr-00411-KJD-CWH

**ORDER**

13 Presently before the court is defendant Robert Marcellus Jones's Motion to Sever (ECF  
14 No. 27), filed April 10, 2019, the government's response (ECF No. 32), filed April 22, 2019, and  
15 Jones's reply (ECF No. 35), filed April 29, 2019.

16 On December 19, 2018, the grand jury returned an indictment charging Jones with various  
17 counts related to child pornography, and also, felon in unlawful possession of ammunition under  
18 18 U.S.C. §§ 922(g)(1), 924(a)(2). (Indictment (ECF No. 13).) Jones argues it is improper and  
19 prejudicial to join the felon in possession charge with the other unconnected and dissimilar  
20 charges. In response, the government indicates that Count Five, the felon in possession charge,  
21 was severed after Jones filed his motion, and Jones has now been indicted for the felon in  
22 possession charge under a separate case number. *See* 2:19-cr-00095-RFB-PAL. The government  
23 also requests that the felon in possession indictment be tried by the same jury after it makes its  
24 findings of guilt on the pending superseding indictment.<sup>1</sup> Not surprisingly, Jones objects to this  
25 proposal, noting correctly that the indictment is a separate criminal proceeding, and that granting  
26

27  
28 <sup>1</sup> The original indictment was superseded on April 16, 2019. *See* Superseding Indictment (ECF No. 28).

1 the government's request would be unduly prejudicial because the jury would be exposed to  
2 information unnecessary to address the felon in possession charge, defeating the justification for  
3 the severance.

4 Because the felon in possession charge has been severed with a new indictment, Jones's  
5 motion to sever is moot, and it is therefore denied. Moreover, the government provides no points  
6 and authorities to support its proposal of having unrelated matters before the same jury with  
7 different trial judges. The failure to provide points and authorities constitutes consent to the  
8 denial of the motion. LCR 47-3.

9 IT IS THEREFORE ORDERED that Jones's Motion to Sever (ECF No. 27) is DENIED.

10  
11 DATED: May 2, 2019

12  
13   
14 \_\_\_\_\_  
15 C.W. HOFFMAN, JR.  
16 UNITED STATES MAGISTRATE JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28